



04191-02U

## SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2013-0005]

RIN: 0960-AH55

Technical Corrections to Regulations

AGENCY: Social Security Administration.

ACTION: Final rule; technical corrections.

SUMMARY: We are making technical corrections to several of our regulations. In some cases, we are correcting outdated cross-references in light of revisions we made to other rules. We are also revising the maximum dollar amount of overpayments subject to compromise based on other changes in the law, and we are adjusting the formula we use to calculate the maximum benefits payable in the first and second installment payments of large past-due benefits for the same reason. In addition, we are updating references to the coverage status of affected non-temporary employees of the government of the Commonwealth of the Northern Mariana Islands. These changes do not alter the substance of the regulations or effect the rights of claimants or any other parties. We expect that the changes will make our rules more internally consistent and make them easier to use.

DATES: This rule is effective (insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Brian J. Rudick, Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-7102. For information

on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

We are making technical corrections to our current regulations in several parts. First, we are revising a reference to section “197(a)(1)” of title 3 of the United States Code in section 404.1018(b)(1)(iv) of our rules to the correct reference, section “107(a)(1).” Section 210(a)(5)(D)(iii) of the Act refers to section 107(a)(1) of title 3, and when we published regulations that implemented that section of the Act, the final rule contained a typographical error that mistakenly referred to section “197(a)(1).” 53 FR 38943, 38945, Oct. 4, 1988. This change corrects that typographical error. Second, in 2012, we published final rules that made some changes to our rules on evaluating evidence. 77 FR 10651, Feb. 23, 2012. Those rules redesignated part of our regulations on evaluating opinion evidence without substantive effect. However, we inadvertently did not correct all of the regulatory sections that the redesignation affected, so that some of the cross-references to the rule are incorrect. Therefore, we are correcting the references in sections 404.1512(b)(7) and (b)(8), and 416.912(b)(7) and (b)(8) to reflect the correct designation of our rules. This change has no effect on claimants’ rights or on how we adjudicate cases.

Third, we are correcting the maximum dollar amount of overpayments subject to compromise, suspension, or termination of collection under section 404.515(a) from \$20,000 to \$100,000, or any higher amount authorized by the Attorney General, as provided by 31 U.S.C. 3711 and the Federal Claims Collection Standards.<sup>1</sup> When we initially published those rules in 1969, the Federal Claims Collection Act of 1966 contained the \$20,000 limit reflected in our rules.<sup>2</sup> Congress temporarily raised the \$20,000 limit to \$100,000 in 1990,<sup>3</sup> and it subsequently removed the sunset provision in the prior law as part of the Debt Collection Improvement Act of 1996.<sup>4</sup> We are revising our rules to conform to the current statutory authority. We are also revising the reference in the heading of section 404.515(a) to the Federal Claims Collection Act of 1966 to the Debt Collection Improvement Act of 1996, to reflect the current statutory authority.

Fourth, we are correcting the formula we use to calculate the maximum amount payable in the first and second installment payments of large past-due benefits, from 12 times to 3 times the maximum monthly benefit payable, in section 416.545(b). Congress changed the formula from 12 times to 3 times the maximum monthly benefit payable in 2005.<sup>5</sup> We subsequently published a final rule, which reflected that statutory change in the first sentence of section 416.545(b), 76 FR 446, 453, Jan. 5, 2011. However, we inadvertently did not change the same reference in the third sentence of that section. We are correcting the third sentence of section 416.545(b) to conform the sentence to the statutory formula. Finally, we are updating references to the coverage status of affected

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<sup>1</sup> See 31 CFR 902.1(a).

<sup>2</sup> See 31 USC 952(b) (1970).

<sup>3</sup> See sec. 8(b) of Pub. L. 101-552, 104 Stat. 2736, 2746-47.

<sup>4</sup> See sec. 31001(n) of Pub. L. 104-134, 110 Stat. 1321, 1321-369.

<sup>5</sup> See sec. 7502(a) of Pub. L. 109-171, 120 Stat. 4, 154.

non-temporary employees of the government of the Commonwealth of the Northern Mariana Islands to reflect the fact that these employees became subject to Social Security coverage beginning October 1, 2012. These changes make our regulations clearer and more consistent.

### Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We determined that good cause exists for dispensing with the notice and public comment procedures for these final rules. 5 U.S.C. 553(b)(B). Good cause exists for most of these changes because these changes eliminate minor inconsistencies in our rules and therefore promote clear and consistent regulations. These changes do not alter the substance of the regulations or effect the rights of claimants or any other parties. We therefore find that the public would not be interested in commenting on these changes, and we determined that opportunity for prior comment is unnecessary. In addition, we also find that prior public comment is unnecessary with respect to the changes we are making to sections 404.515(a) and 416.545(b) of our regulations. These changes do not represent discretionary policy but merely reflect changes to the underlying statutes. Since these changes do not represent discretionary policy and merely conform our rules to the

statutes, we find that prior public comment is unnecessary with respect to those changes. Therefore, we are issuing these rules as final rules.

In addition, because we are not making any substantive changes to the existing rules, we find there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). These changes merely correct typographical errors or minor inconsistencies in our regulations, or conform our regulations to underlying statutory changes in the Act or other laws. Accordingly, we find that it is unnecessary to delay the effective date of these rules and that it is in the public interest to make these final rules effective on the date of publication.

#### Executive Order 12866 as supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563 and are not subject to OMB review.

#### Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Accordingly, a

regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### Paperwork Reduction Act

These final rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security--Disability Insurance; 96.002, Social Security--Retirement Insurance; 96.004, Social Security--Survivors Insurance; 96.006, Supplemental Security Income.)

#### List of Subjects

##### 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

##### 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public Assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

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Carolyn W. Colvin,  
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending 20 CFR chapter III, part 404, subparts F, K, and P, and part 416, subparts E and I, as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE  
(1950— )

Subpart A — Introduction, General Provisions and Definitions

1. The authority citation for subpart A of part 404 continues to read as follows:

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)) and 48 U.S.C. 1801.

2. Revise §404.2(c)(5)(vi) to read as follows:

§404.2 General definitions and use of terms.

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(vi) The Commonwealth of the Northern Mariana Islands (CNMI) effective January 1, 1987; Social Security coverage for affected temporary employees of the government of the CNMI is also effective on January 1, 1987, under section 210(a)(7)(E) of the Social Security Act. In addition, Social Security coverage for affected non-

temporary employees of the government of the CNMI is effective on October 1, 2012, under section 210(a)(7)(C) of the Social Security Act.

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#### Subpart F — Overpayments, Underpayments, Waiver of Adjustment or Recovery of Overpayments, and Liability of a Certifying Officer

3. The authority citation for subpart F of part 404 is revised to read as follows:

Authority: Secs. 204, 205(a), 702(a)(5), and 1147 of the Social Security Act (42 U.S.C. 404, 405(a), 902(a)(5), and 1320b-17); 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3720A.

#### § 404.515 [Amended]

4. In § 404.515:
  - a. Revise the paragraph (a) heading to read “General effect of the Debt Collection Improvement Act of 1996”; and
  - b. In paragraph (a), remove “\$20,000” and add in its place “\$100,000 or any higher amount authorized by the Attorney General”.

#### Subpart K— Employment, Wages, Self-Employment, and Self-Employment Income

5. The authority citation for subpart K of part 404 continues to read as follows:



Authority: Secs. 202(v), 205(a), 209, 210, 211, 229(a), 230, 231, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(v), 405(a), 409, 410, 411, 429(a), 430, 431, and 902(a)(5)) and 48 U.S.C.1801.

§ 404.1018 [Amended]

6. In § 404.1018(b)(1)(iv), remove “197 (a)(1)” and add in its place “107(a)(1)”.

7. Revise §404.1022(c) to read as follows:

§ 404.1022 American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.

\* \* \* \* \*

(c) Work for Guam, the Commonwealth of the Northern Mariana Islands (CNMI), or a political subdivision or wholly owned instrumentality of Guam or the CNMI. Work as an officer or employee (including a member of the legislature) of the government of the CNMI, its political subdivisions, or any wholly owned instrumentality of any one or more of these, is covered as employment beginning October 1, 2012. Work as an officer or employee (including a member of the legislature) of the government of Guam, its political subdivisions, or any wholly owned instrumentality of any one or more of these, is excluded from coverage as employment. However, the exclusion does not apply to employees classified as temporary or intermittent unless the work is---

- (1) Covered by a retirement system established by a law of Guam or the CNMI;
- (2) Done by an elected official;
- (3) Done by a member of the legislature; or
- (4) Done in a hospital or penal institution by a patient or inmate of the hospital or penal institution.

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#### Subpart P—Determining Disability and Blindness

8. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)-(b) and (d)-(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)-(b) and (d)-(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104-193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108-203, 118 Stat. 509 (42 U.S.C. 902 note).

#### § 404.1512 [Amended]

- 9. In § 404.1512:
  - a. In paragraph (b)(7), remove “(see §404.1527(f)(1)(iii))” and add in its place “(see §404.1527(e)(1)(iii))”; and
  - b. In paragraph (b)(8), remove “See §§404.1527(f)(2)-(3) and add in its place “See § 404.1527(e)(2) and (3).”.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,  
AND DISABLED

Subpart E—Payment of Benefits, Overpayments, and Underpayments

10. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)-(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b-17, 1381, 1381a, 1382(c) and (e), and 1383(a)-(d) and (g)); 31 U.S.C. 3716; 31 U.S.C. 3720A.

§ 416.545 [Amended]

11. In § 416.545(b), remove the number “12” and add in its place the number “3”.

Subpart I—Determining Disability and Blindness

12. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)-(e), 14(a), and 15,

Pub. L. 98-460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

§ 416.912 [Amended]

13. In § 416.912:

a. In paragraph (b)(7), remove “(see §416.927(f)(1)(iii))” and add in its place “(see §416.927(e)(1)(iii))”; and

b. In paragraph (b)(8), remove “See §§416.927(f)(2)-(3).” and add in its place “See § 416.927(e)(2) and (3).”.

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